

Appl. No.: 10/708,138  
Arndt. Dated: 11/19/2004  
Reply to Office action of: 08/25/2004

### REMARKS/ARGUMENTS

In the specification, new paragraphs [0017.2], [0017.2], [0020.1], and [0020.2] have been added to describe properly the new figures 3 and 4 required by the Examiner and described and supported by original claims 6 and 7. Paragraphs [0012] and [0013] have been amended to correct grammatical mistakes pointed out by the Examiner. Paragraph [0026] has been amended to provide proper language for an abstract.

Claims 1 has been amended to corrected informalities pointed out by the Examiner and to claim more clearly Applicants' invention. Claims 2, 3, and 4 have been amended to claim more clearly Applicants' invention. Support for these amendments may be found, for example, in paragraphs [0002], [0018], [0019], and [0026]. Claim 8 has been canceled.

A new drawing sheet comprising new Figure 3 and new Figure 4 has been added by this amendment. These new figures are in response to the Examiner's requirement that they be added to illustrate properly original Claims 6 and 7. Support for these new figures is found in original claims 6 and 7.

No new matter has been introduced by these amendments

The key to the claimed invention is the permanent mounting of the cargo retention rails into the floor panel before the floor panel is mounted in the vehicle. The cargo retention rails of the present invention are fixedly mounted by insert molding into the floor panel and require no further mounting to the vehicle or the floor panel by means of fasteners or other securing means. When viewed in this light it is clear that the claimed invention is not taught, disclosed, or fairly suggested by the cited references.

Claims 2 and 6 – 7 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Examiner states:

Specifically, with regard to claim 2, the "pair of parallel spaced apart retention rails" is recited for which the specification is not enabling. With regard to claim 6, the "pair of parallel spaced apart retention rails is positioned with their longitudinal axis in line with the longitudinal axis of the vehicle" is recited for which the specification is not enabling. Finally, with regard to claim 7, the "pair of parallel spaced apart retention rails is positioned with their longitudinal axis perpendicular to the longitudinal axis of

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the vehicle” is recited for which the specification is not enabling. The specification is not enabling for the recitations (above) because there is no language describing these features and no instances of any mention of these features.

Applicants’ respectfully traverse this rejection. By the amendments to the drawings, specification, and claims submitted herewith the proper enablement is now provided in the specification and drawings. Specifically, the fact that a preferred embodiment of the present invention utilizes a spaced apart pair of retention rails, the fact that the spaced apart pair of retention rails may be orientated with their longitudinal axis in line with or perpendicular to, the longitudinal axis of the vehicle is clearly supported. When viewed in this light it is clear that this basis of rejection is now moot and its removal is respectfully solicited.

Claims 1 – 2, 6, and 8 were rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Malinowski. Specifically, the Examiner states:

Malinowski (5,544,998) discloses a cargo retention rail system (Figure 2) made as an integral (or attached) part of a vehicle floor panel 12 for securing cargo (not shown) in a vehicle cargo area comprising in cooperative combination: at least one cargo retention rail 22 attached to a vehicle floor panel, the cargo retention rail having a channel with an exposed opening for accepting; a cargo retention locking device 60; and a cargo retaining device 44 mountable to the cargo retention locking device; thereby allowing for the cargo to be securely positioned within the vehicle cargo area.

With regard to claim 2, there are a pair of parallel spaced apart retention rails attached to the vehicle floor panel.

With regard to claim 6, the pair of parallel spaced apart retention rails is positioned with their longitudinal axis in line with the longitudinal axis of the vehicle.

With regard to claim 8, the at least one cargo retention rail is attached to the vehicle floor panel.

With regard to the limitation that the rail system is “molded” as an integral part of the floor panel, it should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-

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process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

Applicants' respectfully traverse the rejection. A fair reading of the Malinowski (5,544,998) references discloses a moveable load-bearing floor panel which is mounted upon a pair of spaced apart two-part rails utilizing ball bearings to allow easy movement of one part of a rail to move relative to the other part of the rail pair. This pair of spaced apart, two-part rails is mounted to a stationary primary floor panel of the vehicle in the cargo compartment. They are not an integral part of the primary floor panel but instead separate units mounted after the vehicle floor has been fabricated. The load bearing floor platform is mounted, by its bottom face or surface, to the pair of two-part rails. Thus, the two-part rails also are not an integral part of the load bearing floor panel. In addition, the two-part rails do not provide for securing cargo but instead to securing the load-bearing platform in relation to the primary floor panel. The two-part rail system is not exposed for securing of the cargo, the cargo is loaded upon the top surface of the load bearing floor panel. This creates a vehicle floor and a secondary vehicle floor, but it does not disclose, teach, or fairly suggest how to provide exposed cargo mounting rails molded into a floor panel as an integral part of said floor panel. This reference does not disclose, teach, or fairly suggest a means of securing cargo to an open track system of any kind. The locking mechanism of Malinowski is directed to locking the ball bearing riding two-part tracks in relation to one another and thereby locking the position of the secondary floor panel.

Applicants' claimed invention does not require two floor panels that move in relationship to one another. It does not require a two-part ball bearing moveable pair of tracks. Furthermore, Applicants' claimed invention provides open tracks that are molded into a single floor panel and therefore do not require separate installation onto the floor panel. Clearly, the Malinowski (5,544,998) reference does not disclose, teach, or fairly suggest Applicants' claimed invention. In view of the remarks herein it is submitted that this rejection should be removed, and such action is respectfully solicited.

Claims 1 – 2 and 7 were rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Miyahara et al. Specifically, the Examiner states:

Miyahara et al. (6,345,590) disclose a cargo retention rail system made as an integral or attached part of

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a vehicle floor panel (Figure 5) for securing cargo (seat) in a vehicle cargo area comprising in cooperative combination: at least one cargo retention rail 8a attached to a vehicle floor panel, the cargo retention rail having a channel with an exposed opening for accepting; a cargo retention locking device 29; and a cargo retaining device 30 mountable to the cargo retention locking device; thereby allowing for the cargo to be securely positioned within the vehicle cargo area.

With regard to claim 2, there are a pair of parallel spaced apart retention rails attached to the vehicle floor panel.

With regard to claim 7, the pair of parallel spaced apart retention rails is positioned with their longitudinal axis perpendicular to the longitudinal axis of the vehicle.

Applicants' respectfully traverse the rejection. A fair reading of the Miyahara et al. (6,345,590) references discloses a seat mounting assembly which allows for the lateral as well as longitudinal movement of a seat. The longitudinal movement of the seats is provided by a pair of longitudinal slide rail assemblies attached to the seat. These longitudinal rails are in turn attached, either permanently or removeably, to a pair of laterally mounted slide rail assemblies. The laterally mounted slide rail assemblies are in turn bolted to channels in the metal floor pan of the vehicle (see for example Figures 5 and 6, and Col. 4, line 53 through Col. 5, line 7). Because of safety requirements the seat bearing slide rail assemblies must be bolted to the vehicle metal floor pan and/or frame members. This does not suggest to one skilled in the art how to mold an open channel rail in a floor panel. In fact, it does not suggest how to secure cargo at all, only how to moveably mount a passenger seat.

Clearly, the Malinowski (5,544,998) reference does not disclose, teach, or fairly suggest Applicants' claimed invention. In view of the remarks herein it is submitted that this rejection should be removed, and such action is respectfully solicited.

In response to the Examiner's reminder of Applicants' obligation under 37 CFR 1.56 the Applicants state that all of the claims originally filed and all of the claims as amended and presently in the application were and are all commonly owned at the time all claimed inventions were made.

Claim 3 was rejected under 35 U.S.C. 103(a) as being unpatentable over Malinowski in view of Peterson. Specifically, the Examiner states:

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Malinowski is silent on the material used for the retention rail.

Peterson (6,435,421) teaches extruded aluminum retention rails.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the rails of Malinowski out of extruded aluminum as taught by Peterson in order to provide the rails with strength without adding additional weight to the system.

With regard to the "extruded" aluminum limitation, it should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

Applicants respectfully traverse this rejection. As pointed out hereinabove, a fair reading of the Malinowski reference does not teach, or fairly suggest Applicants' claimed invention. A fair reading of the Peterson (6,435,421) reference discloses that the reference teaches the use of aluminum extruded rails upon which a truck for a camera dolly can ride. It does not teach anything about molding an open channel into a vehicle floor panel or how to secure cargo in a vehicle cargo area. Thus, the combination of Peterson with Malinowski at best only teaches how to use extruded aluminum rails upon which a load bearing wheeled truck or platform can be moveably mounted.

Clearly, neither the Malinowski (5,544,998) reference, the Peterson (6,423,421), nor any combination thereof, discloses, teaches, or fairly suggests Applicants' claimed invention. In view of the remarks herein it is submitted that this rejection should be removed, and such action is respectfully solicited.

Claim 4 was rejected under 35 U.S.C. 103(a) as being unpatentable over Malinowski in view of Huetteman et al. Specifically, the Examiner states:

Malinowski is silent on the material used for the retention rail.

Huetteman et al. (5,960,721) teach polymer rails which provide impact resistance and resist damage.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the rails of Malinowski out of a polymer as taught by Huetteman et al. in order to provide the rails with impact resistance.

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Applicants respectfully traverse the rejection. As pointed out hereinabove, a fair reading of the Malinowski reference does not teach, or fairly suggest Applicants' claimed invention. A fair reading of the Huetteman et al. (5,960,721) reference discloses a composite wood and polymer forklift pallet assembly and method of making same. This reference teaches a traditional forklift pallet that substitutes polymer members for some of the wood members of the prior art forklift pallets. It does not disclose, teach, or suggest how to mold an open rail into a panel. In fact there are no panels in a forklift pallet. The openings are most properly described as slots between pallet decking pieces. The portions describes as rails are solid square post members upon which the decking is attached perpendicular to the spaces between the rails. The rails themselves are solid and are not exposed to any cargo that is placed onto the pallet surface. Clearly, the rails of the Huetteman et al. reference do not disclose, teach, or suggest the open channel rails of Applicants' claimed invention. Furthermore, there can be found no required impetus to combine the teachings of Malinowski and Huetteman et al. in any case, and even if they were combinable, which they are not, they do not reach Applicants' claimed invention of open channels molded into a floor panel.

Clearly, neither the Malinowski (5,544,998) reference, the Huetteman et al. (5,960,721), nor any combination thereof, discloses, teaches, or fairly suggests Applicants' claimed invention. In view of the remarks herein it is submitted that this rejection should be removed, and such action is respectfully solicited.

Claims 4 – 5 were rejected under 35 U.S.C. 103(a) as being unpatentable over Malilnowski in view of Vennell. Specifically, the Examiner states:

Malinowski is silent on the material used for the retention rail.

Vennell (6,270,017) teaches polymer rails and epoxy resin blocks.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the rails of Malinowski out of a polymer as taught by Vennell in order to provide the rails with impact resistance.

Applicants respectfully traverse this rejection. As pointed out hereinabove, a fair reading of the Malinowski reference does not teach, or fairly suggest Applicants' claimed invention. A fair reading of the Vennell (6,270,017) reference discloses a polymer coated railroad train rail used for metropolitan light rail transit systems. The invention comprises

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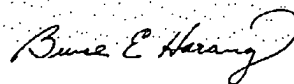
a traditional metal rail positioned in a mold, pre-molded sidepieces are positioned along the metal rail, and then polymer is poured into the mold to encapsulate bottom and sides of the metal train rail. The coated rail is then mounted to the ground using the traditional crossties, rail plates, and rail spikes. This reference does not teach how to mold a metal open channel rail into a floor panel. In fact, it teaches the opposite, how to mold a vibration damping material around a solid railroad rail. In addition, the rail is not molded into a panel and become an integral part thereof, but instead is mounted to the earth using railroad spikes. It does not teach how to substitute a polymer or engineered material for the metal in a rail of any type. The fact that this reference discloses the use of polymer coating of a solid metal rail does not overcome the shortcomings of the Malinowski reference in regard to Applicants' claimed invention.

Clearly, neither the Malinowski (5,544,998) reference, the Vennell (6,270,017), nor any combination thereof, discloses, teaches, or fairly suggests Applicants' claimed invention. In view of the remarks herein it is submitted that this rejection should be removed, and such action is respectfully solicited.

Applicants acknowledge the references cited by the Examiner but not used as a basis of rejection. Applicants make no further comments concerning these references.

In view of the remarks herein, and the amendments hereto, it is submitted that this application is in condition for allowance, and such action is respectfully solicited.

Respectfully submitted,



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Attachments